

**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON**

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:18-cr-00134

ALLEN H. LOUGHRY II

**FOURTH SUPPLEMENTAL RESPONSE OF THE UNITED STATES TO
DEFENDANT'S STANDARD DISCOVERY REQUESTS**

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, Rule 16.1 of the Local Rules of Criminal Procedure, and the Arraignment Order and Standard Discovery Request entered by the Court in this case on August 23, 2018, the United States of America, by counsel, supplements its response to defendant's Standard Discovery Request as follows:

Preliminary Response: Pursuant to this Supplemental Response, the United States provides materials contained on a CD, containing the following folders:

1. Request E-Anticipated Trial Exhibits
2. Request G-Expert Testimony
3. Other Materials

Request E: Permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, building or places, or copies or portions of any of those items, if the item is within the government's possession, custody or control, and (i) the item is material to preparing the defense; (ii) the government intends to use the item in its case-in-chief at trial; or (iii) the item was obtained from or belongs to defendant. [Fed. R. Crim. P. 16(a)(1)(E)]

Response: See Folder 1, which contains travel records identifying fuel cards and EZ Pass transponders with particular Supreme Court vehicles; summary chart of mileage records associated with particular fuel cards; summary chart of records associated with State vehicle/fuel card usage

associated with certain dates; photographs of WEX fuel cards; and WV Parkways Authority records applicable to the Supreme Court, identifying EZ Pass transponders.

Request G: Give to the defendant a written summary of any testimony the government intends to use under Rules 702, 703 or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the government requests discovery under Federal Rules of Criminal Procedure 16(b)(1)(C)(ii) and the defendant complies, the government must, at the defendant's request, give to the defendant a written summary of testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial on the issue of the defendant's mental condition. The summary must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications. [Fed. R. Crim. P. 16(a)(1)(G)]

Response: See Folder 2, which contains a curriculum vitae for FBI Special Agent Kevin R. Horan, and a list of trials at which Agent Horan has testified. The United States anticipates that based on his training, education, and experience, Special Agent Horan will explain how cellular telephones and cell towers operate, such that general location data for a particular cell phone are generated. Special Agent Horan will present his testimony with the aid of power-point slides, which will be provided to defense counsel as soon as possible.

Special Agent Horan will also testify that he has reviewed cell phone location data for specific dates for defendant Loughry's cell phone, from records obtained via search warrant from AT&T (New Cingular Wireless). The dates are those indicated on the summary chart in Folder 1, entitled "Information on State Vehicle/Fuel Card Usage – No Destination Recorded or No Reservation." Special Agent Horan will testify about the location of defendant Loughry's cell phone during those particular dates, and will introduce slides showing those locations. All of the slides will be produced as soon as they are available, but one example (in draft) is included in folder 2, entitled "Cell Phone Location 2013-07-12 to 15."

Other Materials: See Folder 3, which contains a demonstrative exhibit that the United States may use during opening statement and/or closing argument, and photos related to a previously-produced memorandum of interview.

Request M: Provide notice to defendant of the government's intention to use evidence pursuant to Rule 12(b)(4)(B) of the Federal Rules of Criminal Procedure.

Response: The United States reserves the right to use all information and evidence disclosed herein or made available for inspection and copying pursuant to this Response and such information and evidence which may be discovered and finally provided to defendant.

Any discovery provided that is not mandated by Court order, the Federal Rules of Criminal Procedure, federal statute or federal case law, is provided voluntarily as a matter of discretion solely to expedite and facilitate litigation of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing “FOURTH SUPPLEMENTAL RESPONSE OF THE UNITED STATES TO DEFENDANT'S STANDARD DISCOVERY REQUESTS” has been electronically filed and service has been made on opposing counsel by virtue of such electronic filing this 10th day of September, 2018, to:

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